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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,935	02/03/2006	Akihiko Nishio	009289-05198	8746

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EXAMINER	
HSIEH, PING Y	

ART UNIT	PAPER NUMBER
2618	

MAIL DATE	DELIVERY MODE
04/26/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/562,935	**Applicant(s)** NISHIO, AKIHIKO	
	Examiner PING Y. HSIEH	**Art Unit** 2618	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 April 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *27-34*.
   Claim(s) withdrawn from consideration: *35 and 36*.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Lana N. Le/
Primary Examiner, Art Unit 2614

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues on pages 6-13 that the teachings of Li, Parantainen and Wang, even if combined as proposed in the Final Rejection do not teach the features as claimed in claims 27 and 30.

Applicant first argues that there is no motivation for modifying Li's allocated resource to be used for transmitting an ACK/NACK signal based on the disclosure of Parantainen.
However, the examiner respectfully disagrees. In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and KSR International Co. v. Teleflex, Inc., 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, Li's paragraph [0036] discloses a resource allocation for a data traffic channel and Parantainen discloses the downlink control messages for assigning a downlink packet data channel may also include information on the uplink control channel that must be used by the mobile station for the control messages that relate to the assigned downlink data channel in col. 9 lines 5-10. Therefore, the information on the uplink control channel of Parantinen is obvious to be included in the resource allocation for a data traffic channel as disclosed by Li. One is motivated as such in order to make sure the data is successfully transmitted while enables the use of more than one connection (TBF) and time slot for packet data transfer in one data transfer direction and the use of asymmetric resources for uplink/downlink data transfer (see Parantainen el al., abstract).

Applicant further argues that Li does not disclose the Applicant's claimed feature of providing second allocation information indicating the destination of user data because the second allocation information is the downlink resource allocation information for user data transmitted from the base station to the mobile station.
However, the examiner respectfully disagrees. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the second allocation information is the downlink resource allocation information for user data transmitted from the base station to the mobile station) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Based on the braodest reasonable interpretation, since the destination is the subscriber, noitifying the subscriber reads on indicating the destination.

Applicant further argues that since Li does not disclose providing first allocation information and second allcation information, it naturally follows that Li fails to disclose or suggest transmitting first allocation informaiton and second allocation information simultaneously.
However, the examiner respectfully disagrees. The references of Li, Parantainen and Wang indeed teach providing first allocation information and second allocation informaiton as discribed above. Furthermore, Li discloses transmitting first allocation informaiton and second allocation information simultaneously (the base station notifies the subscriber about the cluster allocation as disclosed in paragraph 44 and 81).

Therefore, based on the logical response to the arguments provided above, the examiner respectfully renders claims 27-34 unpatentable over the cited art. Applicant presents additional arguments which d not render the claims allowable after the prosecution on the merit is closed.